

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

ORIGINAL

In the Matter of)

Telephone Number Portability)

To: The Commission)

CC Docket No. 95-116
RM-8535


RECEIVED
FEB 23 1998
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

COMMENTS ON
CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION
PETITION FOR FORBEARANCE

Respectfully submitted,

AMERICAN MOBILE TELECOMMUNICATIONS
ASSOCIATION, INC.

By:


Elizabeth R. Sachs, Esq.
Lukas, Nace, Gutierrez & Sachs
1111 Nineteenth Street, N.W. - 12th Floor
Washington, D.C. 20036
(202) 857-3500

Its Counsel

February 23, 1998

No. of Copies rec'd
List ABCDE

044

The American Mobile Telecommunications Association, Inc. ("AMTA" or "Association"), by its attorneys, and in response to the Federal Communications Commission ("FCC" or "Commission") Public Notice of January 22, 1998, respectfully submits its Comments on the Cellular Telecommunications Industry Association ("CTIA") Petition for Forbearance of number portability requirements for Commercial Mobile Radio Service ("CMRS") providers ("Petition").¹ AMTA supports CTIA's Petition in light of the myriad unresolved technical and regulatory issues associated with this matter, including, but not limited to, AMTA's pending request for reconsideration of which CMRS operators are subject to the number portability obligation.

I INTRODUCTION

AMTA is a nationwide, non-profit trade association dedicated to the interests of the specialized wireless communications industry. The Association's members include trunked and conventional 800 MHz and 900 MHz Specialized Mobile Radio ("SMR") operators, licensees of wide-area SMR systems, and commercial licensees in the 220 MHz and 450-512 MHz bands. Many of the systems operated by the Association's members are classified as CMRS by the FCC. Thus, AMTA has a significant interest in the FCC's deliberations regarding CMRS number portability requirements.

¹ Public Notice, Wireless Telecommunications Bureau Seeks Comments on CTIA Petition Requesting Forbearance from CMRS Number Portability Requirements, CC Docket No. 95-116 (rel. Jan. 22, 1998) ("Public Notice ").

II THE FCC SHOULD FORBEAR FROM IMPOSING NUMBER PORTABILITY OBLIGATIONS ON SMRS UNTIL IT REVISITS ITS "COVERED SMR" DEFINITION

In its Petition, CTIA urges the FCC to use its Section 10 authority to forbear, at least at this time, from imposing number portability obligations on all CMRS providers. 47 U.S.C. § 160(a). CTIA argues that the competition intended to be fostered by a number portability requirement will be better served by allowing new competitive entrants to devote their limited resources to developing network implementation and cost effective service and equipment offerings. It suggests that even without such an obligation there already is substantial, and burgeoning, competition in the CMRS industry, and that it will be enhanced by forbearance until PCS carriers have completed their five-year buildout requirements. CTIA notes that the Commission could revisit the issue at that time and reach a more reasoned determination as to whether CMRS number portability is essential or even appropriate to promote the public interest in robust competition.

AMTA agrees that the CMRS number portability obligation should be deferred. However, even if the Commission determines that CTIA has not satisfied the Section 10 forbearance test as to CMRS providers generally, the Association urges the FCC not to impose the requirement on SMR licensees until the agency has reconsidered its definition of which operators are to be classified as "covered SMRs", and, thereby, subject to number portability requirements.

AMTA already has raised this issue in previous stages of this proceeding. It has filed both a Petition for Declaratory Ruling on the "covered SMR" definition generally, and has requested reconsideration of the utilization of that generic definition in the context of the

requirements of number portability.² The Association has detailed its position that the vast majority of SMR licensees included within the current "covered SMR" definition were not intended by the Commission to be subject to the obligation. AMTA has explained that, unlike subscribers on cellular or PCS systems, only a relatively small percentage of SMR customer units are even capable of interconnection with the public switched network, and that those with that capability typically are not assigned individual telephone numbers for their handsets. They do not have personal telephone numbers to port.

AMTA has further explained that only the most technically advanced SMR networks deploy the components needed to permit the porting of numbers; i.e., SS7 signalling, AIN/IN to do database queries and responses, and AIN triggers. Thus, if the Commission retains the current "covered SMR" definition for number portability, it will have established a standard that only a few SMR networks will be technically capable of satisfying. The rest will need either to abandon interconnection entirely, thereby taking themselves out of the CMRS definition by eliminating a service option currently available to customers, or to undertake the extraordinary cost and complexity of attempting to transform their more basic, highly cost-efficient systems into mini-cellular/PCS-like clones. Either option will constrict, rather than enhance, competition, contrary to the express intention of imposing number portability obligations at the outset. Thus, at a minimum, the FCC should delay the date by which SMRs must comply with this requirement until a reasonable time after the Commission has reconsidered and revised its "covered SMR" definition.

² See, e.g., AMTA Petition for Declaratory Ruling, CC Docket Nos. 94-54, 94-102, 95-116 and ET Docket No. 93-62, filed December 16, 1996 and AMTA Petition for Reconsideration, CC Docket No. 95-116, filed May 15, 1997.

III CONCLUSION

For the reasons described herein, AMTA urges the Commission to defer the date by which SMRs become subject to the number portability requirement.

CERTIFICATE OF SERVICE

I, Loren Costantino, a secretary in the law office of Lukas, Nace, Gutierrez & Sachs, hereby certify that I have, on this February 23, 1998, caused to be hand carried a copy of the foregoing Comments to the following:

Chairman William E. Kennard
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Commissioner Susan Ness
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

Commissioner Harold Furchtgott-Roth
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

Commissioner Michael Powell
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

Commissioner Gloria Tristani
Federal Communications Commission
1919 M Street, N.W., Room 826
Washington, D.C. 20554

Daniel Phythyon, Chief
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, D.C. 20554

Gerald Vaughan, Deputy Chief
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, D.C. 20554

Rosalind K. Allen, Deputy Chief
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, D.C. 20554

Jeanine Polticonieri, Associate Bureau Chief
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, D.C. 20554

David Furth, Chief
Commercial Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
2100 M Street, N.W., 7th Floor, Room 24
Washington, D.C. 20554

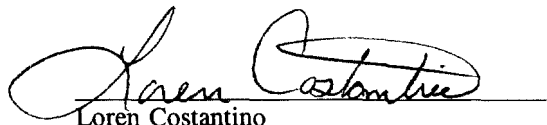
Ramona Melson, Chief
Policy and Rules Branch
Commercial Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
2100 M Street, N.W.
7th Floor, Rm. 101A
Washington, D.C. 20554

Janice Jamison
Wireless Telecommunications Bureau
Federal Communications Commission
2100 M Street, N.W., Room 700
Washington, D.C. 20554

International Transcription Services, Inc.
2100 M Street, N.W., Ste. 140
Washington, D.C. 20037

*Michael F. Altschul
Vice President, General Counsel
Randall S. Coleman
Vice President for Regulatory
Policy and Law
Cellular Telecommunications
Industry Association
1250 Connecticut Avenue, N.W.
Ste. 200
Washington, D.C. 20036

*Via First-class Mail



Loren Costantino